

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #9	CCRB Case #: 201708493	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/11/2017 4:20 PM	Location of Incident: § 87(2)(b)	Precinct: 63	18 Mo. SOL 4/11/2019	EO SOL 4/11/2019	
Date/Time CV Reported Wed, 10/11/2017 8:15 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 10/11/2017 8:15 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Leonardo Viera	26433	946369	063 PCT
2. POM James Haviland	29414	934997	063 PCT
3. POF Melissa Pascual	00790	961074	063 PCT
4. POM David Belkin	07708	960225	063 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Leonardo Viera	Discourtesy: Police Officer Leonardo Viera spoke discourteously to § 87(2)(b)	§ 87(2)(b)
B.POM Leonardo Viera	Force: Police Officer Leonardo Viera used pepper spray against § 87(2)(b)	§ 87(2)(b)
C.POM James Haviland	Force: Police Officer James Haviland used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Leonardo Viera	Force: Police Officer Leonardo Viera used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM David Belkin	Force: Police Officer David Belkin used physical force against § 87(2)(b)	§ 87(2)(b)
F.POM Leonardo Viera	Force: Police Officer Leonardo Viera used physical force against § 87(2)(b)	§ 87(2)(b)
G.POM James Haviland	Abuse: Police Officer James Haviland threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(b)
H.POM Leonardo Viera	Off. Language: Police Officer Leonardo Viera made remarks to § 87(2)(b) based upon the physical disability of § 87(2)(b)	§ 87(2)(b)
I.POM Leonardo Viera	Abuse: Police Officer Leonardo Viera forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
J.POM James Haviland	Abuse: Police Officer James Haviland forcibly removed § 87(2)(b) to the hospital.	
K.POM David Belkin	Abuse: Police Officer David Belkin forcibly removed § 87(2)(b) to the hospital.	
L.POF Melissa Pascual	Abuse: Police Officer Melissa Pascual forcibly removed § 87(2)(b) to the hospital.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On October 11, 2017, reporting non-witness § 87(2)(b) filed this complaint on behalf of her son, § 87(2)(b) and their landlord, § 87(2)(b) with the CCRB via the Call Processing System. On the same day, § 87(2)(b) filed a duplicate complaint with the Internal Affairs Bureau via telephone, generating IAB log number 2017-39914. On October 19, 2017, IAB forwarded this case to the CCRB.

On October 11, 2017, at approximately 4:20 p.m., PO Leonardo Viera, PO James Haviland, PO David Belkin, and PO Melissa Pascual, all from the 63rd Precinct, responded to § 87(2)(b)'s residence at § 87(2)(b) in Brooklyn. PO Viera discouraged § 87(2)(b) from committing suicide because he was “fucking young, in shape, and all,” and he stated to § 87(2)(b) “I’m not gonna bullshit you, you gotta go to the hospital (**Allegation A: Discourtesy**, § 87(2)(g)).” PO Viera pepper sprayed § 87(2)(b) twice in his face (**Allegation B: Force**, § 87(2)(g)) and PO Haviland punched § 87(2)(b) in his lower left side (**Allegation C: Force**, § 87(2)(g)). The officers allegedly attempted to lift § 87(2)(b) off of the ground by his feet and torso, kicked his legs, and tore two of his dreadlocks from his scalp (**Allegations C cont’d, D, and E: Force**, § 87(2)(g)). PO Viera grabbed § 87(2)(b) by his collar, pulled him away from PO Haviland’s grip, and pushed him against a wall inside the ambulance (**Allegation F: Force**, § 87(2)(g)). PO Viera told § 87(2)(b) to “calm the fuck down” and allegedly stated that he “shouldn’t have been fucking resisting (**Allegation A cont’d: Discourtesy**, § 87(2)(g)).” PO Haviland told § 87(2)(b) “Go inside or we’ll call an ambulance for you next (**Allegation G: Abuse of Authority**, § 87(2)(g)),” and PO Viera told § 87(2)(b) that he was “being a retard (**Allegation H: Offensive Language**, § 87(2)(g)).” § 87(2)(b) was forcibly removed to § 87(2)(b) via ambulance (**Allegations I, J, K, and L: Abuse of Authority**, § 87(2)(g)). No one was arrested or summonsed.

Footage from PO Haviland’s and PO Viera’s body-worn cameras was obtained (**Board Review 01, 02, 03, 04, 05**). Embedded in this report are the clips pertinent to the analysis of the allegations. The full versions of these videos can be found in **Board Review 18, 19, and 20**, and are also embedded in IA#54, 55, and 56.

Findings and Recommendations

Allegation A – Discourtesy: Police Officer Leonardo Viera spoke discourteously to

§ 87(2)(b)

Allegation H – Offensive Language: Police Officer Leonardo Viera made remarks to

§ 87(2)(b)

based upon the physical disability of § 87(2)(b)

§ 87(2)(b)

(**Board Review 21**) stated that officers and an ambulance responded to his residence after his ex-girlfriend, non-witness § 87(2)(b), called 911 to report that he wanted to commit suicide. § 87(2)(b) acknowledged telling the officers that he is sometimes suicidal and that he refused to be taken to the hospital voluntarily. § 87(2)(b) alleged that after the officers restrained him and placed him in the ambulance (see Allegations B, C, D, E, F, J, K, L, and M), an officer whom he was unable to identify told him that he “shouldn’t have been fucking resisting.” The investigation identified this officer as PO Viera. § 87(2)(b) did not allege any additional profane statements, and he made no mention of any officer calling him a “retard.” He stated that no officer made any disparaging remarks about his mental state. § 87(2)(b) (**Board Review 22**) stated that no officer used profanities at any point.

In PO Haviland's body-worn camera footage (**Board Review 01, at 00:59**), PO Viera can be heard discouraging § 87(2)(b) from committing suicide because he was "fucking young, in shape, and all." Later in PO Haviland's footage (**Board Review 02, at 00:07**), § 87(2)(b) asked PO Viera if there was any way he could avoid being hospitalized, and PO Viera replied, "I'm not gonna bullshit you, you gotta go to the hospital." In PO Viera's body-worn camera footage (**Board Review 03**), after PO Viera enters the ambulance, § 87(2)(b) can be heard complaining about the way the officers treated him and screaming due to his eyes burning from being pepper sprayed (see Allegation B), and then at 00:26, PO Viera told § 87(2)(b) to "calm the fuck down." Shortly thereafter (**Board Review 03, at 00:36**), § 87(2)(b) says, "You're just being a fucking bully at this point," and PO Viera replies, "No, you're being a retard."



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201708493_20180127_1407_DM.mp4



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None of the officers had any independent recollection of PO Viera using any profanities. When shown the footage from his body-worn camera, PO Viera stated that he had no recollection of saying "I'm not gonna bullshit you, you gotta go to the hospital," or of calling § 87(2)(b) a "retard." He stated that he used the word "bullshit" in order to convey to § 87(2)(b) that he was not going to lie, and that he told § 87(2)(b) to "calm the fuck down" because he would not relax. He stated that he did not use the word "retard" for any particular reason. See **Board Review 23, 24, 25, and 26** for the officer interview reports.

Patrol Guide Procedure 203-09 states that officers must be "courteous and respectful" while on duty. Patrol Guide Procedure 203-10 prohibits the use of "discourteous or disrespectful remarks" regarding another person's disability. See **Board Review 06**.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Force: Police Officer Leonardo Viera used pepper spray against § 87(2)(b)

Allegation C – Force: Police Officer James Haviland used physical force against § 87(2)(b)

Allegation D – Force: Police Officer Leonardo Viera used physical force against § 87(2)(b)

Allegation E – Force: Police Officer David Belkin used physical force against § 87(2)(b)

Allegation I – Abuse of Authority: Police Officer Leonardo Viera removed § 87(2)(b) to the hospital.

Allegation J – Abuse of Authority: Police Officer James Haviland removed § 87(2)(b) to the hospital.

Allegation K – Abuse of Authority: Police Officer David Belkin removed § 87(2)(b) to the hospital.

Allegation L – Abuse of Authority: Police Officer Melissa Pascual removed § 87(2)(b) to the hospital.

§ 87(2)(b) stated that the EMTs § 87(2)(b) and § 87(2)(b) of FDNY) and the officers asked him if he wanted to harm himself, and he said no but told them that he sometimes has the urge to do so. The officers told him numerous times that he needed to go to the hospital (he did not know how they reached this assessment), and he refused to go because he had to go to work. Approximately one minute after the EMT's arrived, PO Viera told § 87(2)(b) twice that he had to go to the hospital, and all four officers approached him. The officers did not issue § 87(2)(b) any commands. § 87(2)(b) got scared, turned to his right towards a handrail, and grabbed onto a handrail with both hands. At this point, the handrail was in front of § 87(2)(b) and the officers were behind him. PO Viera tightly grabbed § 87(2)(b) by his right deltoid and started pulling. The other officers pulled and tugged on § 87(2)(b) by his left deltoid and the back of his shirt. § 87(2)(b)'s head was down, and he could not tell which officer was grabbing where. The officers did not issue any commands to § 87(2)(b) during this time. Approximately 15 to 20 seconds after PO Viera first grabbed § 87(2)(b) saw a hand holding a black can in his face. An officer pepper sprayed § 87(2)(b) in the right side of his face by the corner of his eye. Five seconds later, the same officer pepper sprayed him all over his face. § 87(2)(b) could no longer see because his eyes were burning, and he continued to hold onto the handrail. § 87(2)(b) could not tell which officer pepper sprayed him. § 87(2)(b) felt an unidentified officer punch him in his left side and lower back four to five times in rapid succession, causing bruising and swelling to his side. § 87(2)(b) felt a "blunt force" in his left leg above his ankle as though someone hit him in his leg. An unidentified officer tried to lift § 87(2)(b)'s legs off of the ground, but he successfully kept his feet planted on the ground by pointing his toes together. § 87(2)(b) then felt an unidentified officer tug his dreadlocks twice from behind in rapid succession. The first tug did not cause § 87(2)(b) to move, but when the officer pulled the second time, § 87(2)(b)'s neck bent "all the way back." The officer pulled two of § 87(2)(b)'s dreadlocks out from the root, resulting in a bald spot on the right side of the back of his scalp (his hair has since begun to grow back). § 87(2)(b) also sustained neck pain from his hair being pulled and swelling to the lower left side of his back (these injuries have since healed). No officer made contact with § 87(2)(b)'s windpipe, and at no point was his breathing restricted, but he noted that he was coughing from the pepper spray. Approximately 30 seconds after his hair was pulled, § 87(2)(b) released the handrail and an officer handcuffed him. The physical struggle lasted approximately two minutes. § 87(2)(b) was transported via ambulance to the § 87(2)(b) psychiatric ward, where he spoke to a psychiatrist and his eyes were

washed out with a sterile rinse. § 87(2)(b) stated that he was discharged from the hospital approximately 90 minutes to two hours after he was admitted.

§ 87(2)(b) statement was generally consistent with § 87(2)(b)s. However, she alleged that an officer placed his or her hand on § 87(2)(b)s windpipe. § 87(2)(b) did not know which officer grabbed his windpipe or for how long his or her hand was on § 87(2)(b)s windpipe. § 87(2)(b) did not appear to have difficulty breathing, and § 87(2)(b) did not hear § 87(2)(b) complain that he could not breathe. § 87(2)(b) also alleged that all four of the officers lifted § 87(2)(b) off of the ground by his legs and upper torso, and § 87(2)(b) remained upright and continued to hold onto the handrail. § 87(2)(b) did not see § 87(2)(b) being handcuffed and noted that she learned this from § 87(2)(b) after the incident. § 87(2)(b) stated that all four officers carried § 87(2)(b) from the stoop to the ambulance by his arms and torso, and that § 87(2)(b) did not walk to the ambulance.

In PO Haviland's body-worn camera footage (**Board Review 01, at 00:37**), PO Viera asked § 87(2)(b) if he told his ex-girlfriend that he wanted to kill himself, and § 87(2)(b) said yes and told PO Viera that he sometimes has the urge to hurt or kill himself. In PO Viera's body-worn camera footage (**Board Review 04, at 00:06**), A female EMT asked § 87(2)(b) if he was cutting himself, and § 87(2)(b) said yes and showed her his right wrist.



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PO Viera's footage did not capture the physical struggle between § 87(2)(b) and the officers. In PO Haviland's footage (**Board Review 05, at 00:00**), PO Haviland told the EMT's that the officers will "bring § 87(2)(b) in." The EMTs walked back, and PO Haviland approached § 87(2)(b) who became visibly upset, refused to be taken to the hospital, and said he was going to get violent. PO Haviland told § 87(2)(b) that he was either going to "walk like a gentleman" or the officers would have to forcibly handcuff him. At 02:00, PO Viera grabbed § 87(2)(b)s left shoulder with his left hand. PO Haviland then grabbed § 87(2)(b)s left bicep with both hands. § 87(2)(b) turned clockwise towards the handrail and grabbed the handrail with both hands. A hand that appears to be PO Viera's grabbed § 87(2)(b)s dreadlocks. Another hand with a glove that appears to be PO Haviland's also grabbed § 87(2)(b)s dreadlocks. A male voice said, "Get off," and § 87(2)(b) shouted, "Don't punch him!" PO Viera said, "Watch your face," and reached towards § 87(2)(b)s face as his torso was bent over the handrail. PO Haviland told § 87(2)(b) to go back inside her building, and § 87(2)(b) refused to do so. PO Viera then said, "Put your hands behind your back or I'll spray you again," while pointing his pepper spray towards § 87(2)(b)s face. The click of the handcuffs is heard. At his point, PO Viera, PO Pascual, and PO Belkin appear to be making contact with § 87(2)(b) and PO Pascual appears to be the officer who handcuffed § 87(2)(b). After § 87(2)(b) was handcuffed, PO Haviland and PO Belkin walked him from the stoop to the ambulance.



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§ 87(2)(b)'s Pre-Hospital Care Report (**Privileged Documents 01**) states that § 87(2)(b) was cutting his wrist and wanted to kill himself, that he became "extremely irate and aggressive," and that an officer pepper sprayed him. The only injuries mentioned in the Ambulance Call Report are superficial lacerations to his left and right wrists (with bleeding already controlled) and irritation to his eyes from the pepper spray. § 87(2)(b)'s medical records from § 87(2)(b) (**Privileged Documents 02**) list his chief complaints as suicidal ideation, multiple cuts to his forearm at various stages of healing, and burning to his eyes from the pepper spray. They note that § 87(2)(b) has inflicted self-harm and was exhibiting suicidal behavior, and that § 87(2)(b) reported that he was punched on the left side of his chest and had some of his hair pulled out. § 87(2)(b)'s medical records from his private physician, § 87(2)(b) (**Privileged Documents 03**), state that § 87(2)(b)'s neck was strained and his hair was pulled out as a result of his interaction with the officers, and that he suffered from head and neck pain and discomfort to his left side. § 87(2)(b) was instructed to take an anti-inflammatory medication such as Motrin or Advil. § 87(2)(b) sent the undersigned photographs of a bruise on § 87(2)(b)'s left side, a bald spot at the top of his scalp, and two loose dreadlocks (**Board Review 07**). No AIDED report was prepared for § 87(2)(b) (see Allegations N and O).

PO Viera stated that the officers attempted to pull § 87(2)(b)'s hands off of the handrail, but he would not let go. PO Viera drew his pepper spray and told § 87(2)(b) that he was going to be sprayed, and § 87(2)(b) did not respond. Less than one minute after § 87(2)(b) grabbed the handrail, PO Viera pepper sprayed § 87(2)(b) in his face, and § 87(2)(b) would still not let go of the handrail. Approximately five seconds later, PO Viera pepper sprayed § 87(2)(b) again. PO Viera did not know what force besides the pepper spray was used to get § 87(2)(b) off of the handrail, and he did not do anything to get § 87(2)(b) off of the handrail besides pepper spraying him. PO Viera was unable to say how the other officers made physical contact with § 87(2)(b). PO Viera stated that he did not grab any of § 87(2)(b)'s dreadlocks or know of any other officer doing so. After viewing PO Haviland's body-worn camera footage, PO Viera stated that he did not recall making any contact with § 87(2)(b)'s hair and that he did not intentionally make contact with § 87(2)(b)'s dreadlocks.

PO Haviland stated that after the officers unsuccessfully tried to pull § 87(2)(b)'s hands off of the handrail, he struck § 87(2)(b) one time in his lower left side with his right hand in order to free his left hand so he could be handcuffed. PO Haviland's hand strike did not free either of § 87(2)(b)'s hands, and he stated that he used no additional force against § 87(2)(b) and that no officer punched § 87(2)(b) besides himself. He stated that PO Viera pepper sprayed § 87(2)(b) and used no additional force. PO Haviland did not know how many times PO Viera pepper sprayed § 87(2)(b) or whether PO Viera warned § 87(2)(b) that he was going to be pepper sprayed. PO Haviland did not see § 87(2)(b) being pepper sprayed because his view was obstructed. After viewing the footage from his body-worn camera, PO Haviland stated that the hand with the glove on § 87(2)(b)'s head "could be" his own. PO Haviland did not remember grabbing any of § 87(2)(b)'s dreadlocks or pulling any of his dreadlocks out of his head, and he did not recall any other officer doing so. PO Haviland explained that if he grabbed § 87(2)(b)'s heads, it would have been to gain leverage so he could grab his hands.

PO Belkin did not recall whether § 87(2)(b) grabbed the handrail. PO Belkin stated that the only thing he did was place § 87(2)(b)'s left arm behind his back in order to assist in handcuffing § 87(2)(b). PO Belkin did not know what, if any, force the officers used against § 87(2)(b) including whether § 87(2)(b) was punched, pepper sprayed, or had his dreadlocks torn out.

PO Pascual stated that PO Belkin grabbed § 87(2)(b)'s left arm and PO Viera grabbed § 87(2)(b)'s right arm, and they tried to bring his hands around his back. § 87(2)(b) would not put his hands behind his back, and he shook his arms away from the officers' grip. PO Pascual did not recall whether § 87(2)(b) grabbed onto a handrail or gate. Once § 87(2)(b) had both of his hands behind his back, PO Pascual handcuffed him. PO Pascual stated that she did not use any force against § 87(2)(b). PO Pascual did not recall whether PO Viera pepper sprayed § 87(2)(b) and she denied that any officer punched § 87(2)(b), placed a hand on § 87(2)(b)'s windpipe, kicked him, attempted to lift him off of the ground, or made contact with his feet or torso. PO Pascual stated that she did not grab or make contact with § 87(2)(b)'s dreadlocks, and she was unaware of any other officer doing so. She denied that any force was used against § 87(2)(b) besides the officers pulling his arms behind his back and handcuffing him. While PO Pascual was trying to restrain § 87(2)(b), her right elbow made contact with concrete somewhere on the property, resulting in scratches, bruises, and minor bleeding to her elbow. PO Pascual received a bandage from the EMTs at the scene, and she refused additional medical attention.

The Threat, Resistance, and Injury Reports prepared by all four officers (**Board Review 08, 09, 10, 11**) do not note any force used against § 87(2)(b) that the officers did not acknowledge using in their interviews. In an AIDED report that PO Pascual prepared for herself (**Board Review 12**), she stated that she was scratched and bruised on her right elbow while attempting to restrain § 87(2)(b) and sustained some bleeding, but she refused medical attention.

Patrol Guide Procedure 221-13 defines an emotionally disturbed person as “a person who appears to be mentally ill or emotionally deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others,” and states that emotionally disturbed persons must be taken into protective custody. According to Patrol Guide Procedure 221-01, “Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances.” Patrol Guide Procedure 221-07 states. “O.C. pepper spray may be used to gain or maintain control of persons who are actively resisting arrest or lawful custody or exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of service, or other persons. O.C. pepper spray may be used in arrest or custodial restraint situations where physical presence and/or verbal commands have not been, or would not be, effective in overcoming physical resistance.” **See Board Review 06.**

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

Allegation F – Force: Police Officer Leonardo Viera used physical force against § 87(2)(b)

§ 87(2)(b) stated that after he was handcuffed and brought to the ambulance, an officer whom he was unable to identify grabbed him by the front of his collar and said, “You shouldn’t have been fucking resisting (see Allegation A).” This officer then shoved § 87(2)(b) by his collar, causing his upper body to make impact with a wall inside the ambulance. § 87(2)(b) then slid down this wall into a seat that was underneath him. § 87(2)(b) did not sustain any injury from this, and he stated that the officer did not give him any commands inside the ambulance and that nothing noteworthy occurred inside the ambulance before this moment. § 87(2)(b) remained standing on her stoop near her front door, and she was not present inside or near the ambulance. She made no mention of any physical struggle taking place inside the ambulance. The officer in question has been identified by the investigation as PO Viera.

In PO Haviland’s body-worn camera footage (**Board Review 05, at 03:16**), PO Haviland can be seen standing outside of the ambulance’s side door and holding § 87(2)(b)’s right elbow with his left hand while § 87(2)(b) is standing handcuffed inside the ambulance with his back turned towards him. § 87(2)(b) was visibly upset and complaining about how PO Viera treated him, but he was not moving. At 03:37, PO Haviland asked § 87(2)(b) “Are you going to sit down?” Immediately thereafter, PO Viera, who was inside the ambulance, pulled § 87(2)(b) away from PO Haviland’s grip and further into the ambulance, and § 87(2)(b) said, “Ah, shit!” PO Haviland briefly turned away from § 87(2)(b) and PO Viera can be heard repeatedly telling § 87(2)(b) to calm down. PO Haviland turned back towards the door, and PO Viera can be seen holding § 87(2)(b) against a wall inside the ambulance. No officer issued any commands to § 87(2)(b) while he was standing inside the ambulance, except for when PO Haviland asked him if he was going to sit down.



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In PO Viera’s body-worn camera footage (**Board Review 03, at 00:00**), PO Viera can be seen entering the ambulance through the back door while § 87(2)(b) is standing inside the ambulance at the side door and PO Haviland is holding him. PO Viera approached § 87(2)(b) and then § 87(2)(b)’s body obscures the footage. § 87(2)(b) said “Ah, shit,” and then PO Viera can be seen holding § 87(2)(b) against the wall by the front of his collar. PO Viera then told § 87(2)(b) to sit down and calm down.



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Prior to viewing the body-worn camera footage, PO Viera stated that PO Haviland stood with § 87(2)(b) at the side door of the ambulance and that the officers asked § 87(2)(b) to step into the ambulance, but § 87(2)(b) kept his body stiff. PO Viera entered the ambulance, pulled § 87(2)(b) up into the ambulance through the side door by his shirt (near his shoulder) and his arm, and placed him on a seat next to the door by guiding his body down into the seat with his back against the wall. PO Viera did not recall issuing any commands to § 87(2)(b) before pulling him into the ambulance, and he stated that § 87(2)(b) resisted being pulled into the ambulance by “[throwing] himself back” and not stepping into the ambulance. § 87(2)(b) also did not bend his knees to sit down. PO Viera stated that he did not push or throw § 87(2)(b) into a wall or seat in the ambulance, and that no force was used against § 87(2)(b) in the ambulance.

After viewing his and PO Haviland’s body-worn camera footage, PO Viera stated that he pulled § 87(2)(b) away from PO Haviland’s grip because § 87(2)(b) did not want to enter the ambulance. PO Viera did not recall how many times § 87(2)(b) was told to enter the ambulance before this moment, and he noted that he was unable to hear what PO Haviland was saying to § 87(2)(b) as he walked around the ambulance and entered through the rear. PO Viera placed § 87(2)(b) against the wall in this fashion because § 87(2)(b) continued to struggle with him. § 87(2)(b) attempted to remain standing while his back was against the wall above the seat.

Prior to viewing the body-worn camera footage, PO Haviland stated that § 87(2)(b) did not offer any resistance inside the ambulance and that there was no physical struggle inside the ambulance. He stated that no officer grabbed § 87(2)(b) by his collar or pushed or threw him against a wall inside the ambulance. After reviewing his body-worn camera footage, PO Haviland stated that PO Viera pulled § 87(2)(b) into the ambulance in order to have him sit down in the ambulance.

PO Pascual and PO Belkin stated that they did not see anything that happened inside the ambulance and were not aware of any physical struggle that took place in the ambulance. They were unable to provide any more context as to what happened in this moment after they viewed the body-worn camera footage.

According to Patrol Guide Procedure 221-01 (**Board Review 06**), “Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances.”

§ 87(2)(g)

[REDACTED]

Allegation G – Abuse of Authority: Police Officer James Haviland threatened to remove § 87(2)(b) to the hospital.

§ 87(2)(b) stated that after he was handcuffed, a male officer told § 87(2)(b) to stay back and said to her, “You’ll be next.” § 87(2)(b) stated that the officers told her to go inside and that she refused to comply, but she made no mention of any officer threatening to take her to a hospital.

In his body-worn camera footage (**Board Review 05, at 03:55**), PO Haviland can be heard saying, “Go inside, ma’am. Go inside or we’ll call an ambulance for you next.” § 87(2)(b) is not visible or audible at this moment or in the moments immediately prior.



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Prior to reviewing his body-worn camera footage, PO Haviland stated that there was no cause to bring § 87(2)(b) to a hospital, and that no officer said, “Go inside or we’ll call an ambulance for you next.” After reviewing the footage, PO Haviland identified himself as the officer who made this statement. He stated that at this moment, he was addressing § 87(2)(b) who was still standing near her house. PO Haviland did not recall whether § 87(2)(b) exited her yard. PO Haviland made this statement because § 87(2)(b) was yelling. When asked whether he was able to say what § 87(2)(b) was saying, PO Haviland replied, “She was yelling and screaming.” PO Haviland stated that § 87(2)(b) may have been “a little bit unstable.” PO Haviland would have called an ambulance for her to “get her checked out [and] make sure she’s alright,” and he added, “She just witnessed her neighbor, her tenant, get taken in. She was a little upset, so maybe she needed to see an ambulance.” When asked why she would need to see an ambulance, PO Haviland replied, “emotionally.” When asked whether § 87(2)(b) was behaving as an emotionally disturbed person would behave, PO Haviland replied that she was “screaming and yelling.” § 87(2)(b) would not have been categorized as an emotionally disturbed person for any other reason.

PO Belkin and PO Pascual stated that there was no cause to bring § 87(2)(b) to a hospital, and PO Viera did not know whether § 87(2)(b) could have been involuntarily hospitalized. None of them recalled PO Haviland saying, “Go inside or we’ll call an ambulance for you next,” or otherwise threatening to take her to a hospital.

Patrol Guide Procedure 221-13 (**Board Review 06**) defines an emotionally disturbed person as “a person who appears to be mentally ill or emotionally deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others,” and states that emotionally disturbed persons must be taken into protective custody.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)

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§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which § 87(2)(b) and § 87(2)(b) are involved (**Board Review 14**).
- PO Viera has been a member of the NYPD for ten years and is the subject of 15 additional CCRB allegations involving five cases with no substantiated allegations (**Board Review 15**).
 - PO Viera is the subject of a Discourtesy: Word allegation in case number 201105585 (complaint withdrawn).
- PO Haviland has been a member of the NYPD for 14 years and is the subject of 11 additional CCRB allegations involving eight cases with one substantiated allegation (**Board Review 15**).
 - In case number 201405853, PO Haviland is the subject of an Abuse: Vehicle Search allegation that was closed as substantiated. The CCRB recommended a penalty of Command Discipline, and the NYPD imposed a penalty of Formalized Training.
 - PO Haviland is the subject of Force: Physical Force allegations in case numbers 200616144 (exonerated), 200704257 (unfounded), and 200710278 (complainant uncooperative).
- PO Belkin and PO Pascual have each been members of the NYPD for two years and are not the subjects of any additional CCRB allegations (**Board Review 15**).

Mediation, Civil and Criminal Histories

- This case was deemed ineligible for mediation due to the officers' forcible removal of § 87(2)(b) to § 87(2)(b) as well as the injuries sustained by § 87(2)(b) as a result of this encounter.
- As of January 16, 2018, § 87(2)(b) and § 87(2)(b) have not filed a notice of claim in regards to this incident (**Board Review 16**).
- § 87(2)(b) and § 87(2)(b) have no criminal convictions to date (**Board Review 17**).

Squad No.: 9

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date